

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Rosenblum, <i>et al.</i>	§	ART UNIT:
	§	1642
FILED: May 26, 1999	§	
	§	EXAMINER:
SERIAL NO.: 09/320,156	§	Canella, K.
	§	
FOR: Immunotoxins Directed Against	§	DOCKET:
c-erbB-2 (HER-2/Neu) Related	§	D5425CIP2
Surface Antigens	§	



#7
K9
2-22-00

The Assistant Commissioner of Patents and Trademarks
BOX NON-FEE AMENDMENT
Washington, DC 20231

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

Responsive to the Restriction Requirement mailed January 10, 2000 in the above-referenced patent application, Applicants hereby provisionally elect Invention II, claims 15-18 with traverse.

Applicants hereby traverse the Restriction Requirement mailed January 10, 2000. The Examiner states that Inventions I, II, III, and IV are independent and distinct each from the other. In particular, the Examiner states that Inventions I and II are distinct chemical entities in possession of unrelated protein components

obtained from widely differing natural sources. Inventions I and III and Inventions II and IV are declared to be unrelated to each other as product and process of use, which can be shown to be distinct if either the process for using the product as claimed can be practiced with another product or the product can be used in a materially different process. Inventions III and IV are declared to be distinct as differing in method objectives, method steps and parameters, and reagents used.

The Examiner's statement notwithstanding, Applicants respectfully submit that there is a unity of invention between Inventions I, II, III, and IV. While Inventions I and II do use different proteins, these proteins are simply variant toxins which are linked to the same immunoglobulins to be used for the same purposes. The fact that Inventions I and II are similar is reinforced by the fact that both Inventions are classified in class 530, subclass 387.3. The methods of claims 11-14 of Invention III cannot be carried out without the immunotoxins of Invention I. Likewise, the methods of Invention IV require the immunotoxins of Invention II. For this reason, Applicants believe that a single inventive concept is intimately intertwined among Inventions I, II, III and IV.

Therefore, it would not unduly burden the Examiner to perform a search encompassing claims 1-21. Accordingly, Applicants respectfully request that the Restriction Requirement under 35 U.S.C. §121 be withdrawn. Should any fees be due, please debit Deposit Account 07-1185.

Respectfully submitted,

Date: 2/8/00



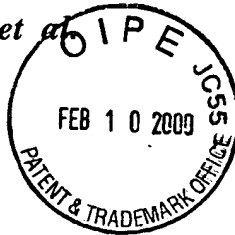
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CERTIFICATE OF MAILING UNDER 37 CFR 1.8

Dear Sir:


I hereby certify under 37 CFR 1.8 that the following correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to Commissioner of Patents and Trademarks, Washington DC 20231.

- 1) Response to Requirement (3 Pages); and,
- 2) Return postcard.

Please return the enclosed postcard acknowledging receipt of this correspondence.

Respectfully submitted,

Date: 2/8/00
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